



Town of Jericho
Development Review Board

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Development Review Board
Jericho Town Hall
Thursday, September 24, 2015

Minutes

Members Present: Barry King, Joe Flynn, Stephanie Hamilton, Jeff York
Members Absent: Christopher West
Guests: Katherine Sonnick (Planner), Amy Richardson (Secretary)
Public: Stephen Reynes, Karen Floyd, David Villeneuve, J.D. Bugbee, John Koier,
Reverend Doctor Regina Christianson, Craig Chase, Bill Chase, Bob Provost

MEETING AGENDA

- A request to the DRB by J.D. Bugbee for conditional review for a change of use at 5 South Main Street, former location of the Autosmith auto repair facility. The applicant is proposing a multi-family dwelling. This parcel is located in the Commercial Zoning District.

The applicant proposes to add one (1) 1BR and two (2) 2BR apartments to the ground floor level of the existing building. No changes are proposed to the building footprint or the existing paved parking area. The applicant previously received conditional use approval for an identical application in July of 2014. Said approval has since expired, as no zoning permit was issued within 180 days of the conditional use approval.

- A request to the DRB by Gabe Handy for a 2-lot subdivision at 374 Vermont Route 15. This parcel is located in the Village Center Zoning District and Character Based Zoning District. No structures are proposed at this time.
- Minutes from August 27, 2015.

Mr. King called the public meeting to order at 7:01 p.m. He read the warning. He asked the members to disclose any conflicts of interest. Ms. Hamilton noted that she is a member of the Episcopal Church, saying it would not affect her ability to make a decision on the Handy application. Mr. Flynn said he had communication with Bill Chase regarding the property line and the right of way on the subject parcel, which will not impact decisions rendered. Mr. King clarified that Ms. Hamilton is not recusing herself. Ms. Hamilton agreed, saying it is not necessary. Mr. King then clarified that Mr. Flynn was disclosing some ex parte communication, some information provided to him outside of this hearing. He stated the information was about the width of the road, saying that information is reflected in the public information for this hearing. He explained that the rules for conflicts of interest and ex parte communication are to disclose, which is being done. Mr. King read the Interested Persons Law. The public was sworn in at 7:07 p.m.

- 1. A request to the DRB by J.D. Bugbee for conditional review for a change of use at 5 South Main Street, former location of the Autosmith auto repair facility. The applicant is proposing a multi-family dwelling. This parcel is located in the Commercial Zoning District.**

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Applicant's Presentation

Mr. Bugbee said he got approval last May for conditional use of the old Autosmith building to convert it to a multi-family apartment building. He stated he went ahead and got all of his State permits and everything signed off on the State side. He said when he came back to the Town to get his Certificate of Occupancy they said he didn't get his permit from the Town; when he came in to ask if he needed a permit, whoever he spoke to upstairs said multi-family falls under the State and the Town has no jurisdiction. Mr. Bugbee stated that is why he is here reapplying for it today.

Board Questions

Mr. Flynn said one of the conditions when it was previously approved was decommissioning one part of the driveway. Mr. Bugbee stated that he and Michelle both spoke with the Road Foreman and he was okay with leaving that there. He said he thinks she has that in her records. He said the Foreman stated it didn't impact them at all. Mr. King asked for clarification whether this is a de novo application for conditional use or whether it is a modification of the previous one. Mr. Bugbee stated it is new. Ms. Sonnick said the old conditional use expired. Mr. King said he is still not clear on sequence of things. He stated there was a conditional use approval previously, which the DRB wrote and he would have been able to get building permits based on that, noting there were probably State permits involved as well.

Ms. Sonnick said he didn't get his building permit, but went ahead with construction. She said when he applied for the Certificate of Occupancy it was determined there wasn't a building permit that had been pulled. She stated Michelle did her research to determine the timing of everything. Ms. Sonnick stated a conditional use expires within the year if a building permit is not pulled, noting this was approved May 2014 and this came to our attention in August after the conditional use expired. She said he is coming back for essentially a new conditional use in order to get a building permit to get a Certificate of Occupancy for work that already has been done.

Mr. Flynn asked whether the old conditions from the previous application would matter. Ms. Sonnick agreed. Mr. Bugbee said nothing changed; when he came back once he got all of his State approvals, whoever he spoke to upstairs said it fell on the State for multi-family. He said he went ahead and did it. Mr. Flynn stated a condition of the previous approval was decommissioning the driveway, but you are telling us that you want to leave it. Mr. Bugbee agreed, saying he and Michelle discussed that; she followed up with Doug, who came out and looked at it.

Ms. Sonnick stated it shows in the staff notes that Doug commented on that, referring to page 3 at the bottom. Mr. Bugbee said that is the only thing as far as the permit goes that he has not complied with. He said the second road has been there since 1995, since that building was built. He noted it does serve a separate entrance to the apartments. Ms. Sonnick displayed the site plan. She indicated the entrance that was asked previously to be removed, noting that this one would remain open. Mr. Bugbee discussed the impact to people if that driveway was removed, there would also need to be extra lighting which would be more of a disturbance.

Ms. Hamilton asked how many apartments the front entrance accesses. Mr. Bugbee responded that the front accesses one and the back accesses three. He said the back is blacktop and the front is gravel. He noted that it only goes to the end of the building, it is very small. Mr. Flynn asked if they are still able to drive the horseshoe around the building. Mr. Bugbee answered no, saying that is grass. He said there was a garage door on the front of the building, indicating the location, which is all grass now. Mr. King asked for clarification of which side. Mr. Bugbee said the front entrance, to the right used to be a garage door and a driveway to enter the building, which is now all lawn.

Mr. King asked if we have comment in the staff notes about the two curb cut thing. He said this was in the first conditional use and it seems to him that the regulations are specific on curb cuts. Ms. Hamilton said Section 10.4.1 states that curb cuts shall be limited to one per residential property. Mr. Bugbee said this is not a residential property, it is a commercial property. Mr. King asked isn't this multi-family residential, isn't that the use. He said it is in the Commercial District; the use is classified as multi-family residential. Ms. Sonnick agreed, saying what he may be thinking of is that with the State it is under the Fire Marshall's jurisdiction because it is multi-family like commercial is and so it is similar in that way. She stated as far as our zoning regulations go this is a residential use.

Mr. King said there are rules that the State puts in place about access to multi-family buildings. He asked what the Fire Marshall permits require for access. Mr. Bugbee said he doesn't know, but he has his Fire Marshall permit, electrical and plumbing, he already has that. Mr. King asked what layout they are based on. Mr. Bugbee said they are based on the layout with that driveway there. Mr. King said that puts you in a bind because if we don't approve this site plan and you need to change it, then it may not comply with their rules anymore. Mr. Bugbee stated the Fire Marshall was only concerned with the building aspect of it; he didn't mention anything about the driveway as far as the inspection went. Mr. King asked if the permits are there. Mr. Flynn said yes. Mr. King said he wants to make sure that we can review in deliberation; want to get the information.

Mr. Bugbee said before the building was always a mixed use lot; it was always residential and commercial. He said it was in the same situation with one curb cut. Mr. York asked how many parking spaces there will be. Mr. Bugbee stated it is approved as Autosmith up to twenty something spaces, noting that each tenant is allowed two cars maximum. Mr. York asked if he would paint the spaces. Mr. Bugbee said no, nothing is painted. Mr. York asked what percent of the land is covered by the driveway and the pavement. Mr. Bugbee said he doesn't, saying it is all within regulations because none of the exterior or footprint has changed.

Mr. Flynn clarified he would have decreased the impervious because of what was decommissioned. Mr. Bugbee agreed, saying there is less traffic now. He asked if they have a copy of the letter from the Jericho East Homeowners Association. Mr. Flynn asked what it was in regards to. Mr. Bugbee said it was approval as far as they are concerned. He said that was pre-existing with an apartment upstairs. Mr. King asked if any other new information was submitted in writing. Ms. Sonnick stated that on September 17, 2015 the School District submitted in writing that they are okay with the proposed additional children. Mr. King asked if there is a letter from the Fire Department, saying he knows this is a little different because there is a State fire inspection. Mr. Bugbee said they have one from before. Ms. Sonnick said she doesn't see a new one. Mr. Bugbee said Michelle was looking for that also.

Public Comment

Mr. King explained the rules for public comment. Mr. Villeneuve said he was listening to conversation and he would interpret that this was an existing use as commercial and residential. He said he would think under the grandfathered part of it that they don't need to take away the existing driveway because it existed before and it was an existing use of commercial and residential. He stated that is how he interpreted it; just a suggestion that he feels that is how it could be passed through and it would not be in violation.

Mr. King closed public comment. He checked with Ms. Sonnick and the DRB members to see if there were any other questions or any other evidence needed. Since there was none and there were no questions from public comment, he closed the hearing. Mr. King said the decision would be issued within 45 days, saying it is usually sooner.

2. A request to the DRB by Gabe Handy for a 2-lot subdivision at 374 Vermont Route 15. This parcel is located in the Village Center Zoning District and Character Based Zoning District. No structures are proposed at this time.

Applicant's Presentation

Mr. Craig Chase introduced himself. He said it is an existing property the applicant wishes to turn into two lots, with an existing residence on one lot. He stated they initially submitted it with the information they had, noting they thought it was a three rod right of way on Route 15. Mr. Chase said Joe was kind enough to provide us with a deed that clearly shows it to be a four rod right of way, so they corrected the plans and brought them up this morning. He said this property does border the Episcopal Church, saying they have a right of way along the property line on Lot 1. He said it is of an unspecified width in the deeds, saying he will answer the DRB's questions. Mr. King clarified they are not proposing any structure on the second lot at this time, but certainly that is the long-term plan. Mr. Chase said that is correct, noting they are in the process of seeing if they can get wastewater permits from the State.

Board Questions

Mr. Flynn said in regards to working toward septic permits, do they know the adjacent impact to other local wells and so on in the area. Mr. Chase said these lots are served by municipal water, but he is not sure about Mr. Villeneuve's property, perhaps he could chime in. He stated he conducted a physical search of the property and of the Agency of Natural Resources base maps, saying he could not find any wells within the wastewater system isolation zone.

Mr. Flynn said he was glad to see a license agreement with draft language. He asked if there is anything in regards to a maintenance agreement, noting it addresses lighting and so on, but is there anything about maintaining that in the back. Mr. Chase said he hasn't been privy to any discussions regarding that.

Mr. Provost, an agent for Mr. Handy, arrived and was sworn in by Mr. King at 7:27 p.m.

Mr. Provost introduced himself and said he was here the last time. Mr. King said the question that was open when Mr. Provost walked in was about the maintenance agreement for the right of way. He said the right of way status is pretty clearly described on the plan. Mr. Flynn said in the licensing agreement it is clear the Church wants to continue to use it as long as it is a church and it speaks to lighting, but it doesn't discuss who is responsible for the maintenance.

Mr. Provost said there is, noting the document the DRB is looking at he was the author of, saying it went to Michelle and the Town Attorney who came back with a modification that asked for some wording addressing maintenance and repair; saying it was added on page 2 and resubmitted. He said he wonders if they are reviewing the latest edition. The DRB members looked at the draft documents, identifying the newest one.

Mr. King asked if they are proposing to put this later draft in place that does talk about maintenance and upkeep. Mr. Provost said the Church is benefitted by this right of way and there is nothing in terms of an easement or documentation that says they can use this. He stated Mr. Handy thought he would let them use it, but would put some wording together because if he conveys this lot the new owner may object to having them park there. He said they wanted to protect the Church, so they put together the agreement. Mr. King said he understands, saying we are trying to make sure that what you are proposing is to put this license agreement in as part of the subdivision filed documents, so they would run with the land. Mr. Provost said no, it runs with the use of the Church. He said if the Church abandons the use or sells the property it would be revisited; it doesn't mean that Mr. Handy or the next owner wouldn't allow it to continue, it just allows it to be revisited.

Mr. King said he is just trying to clarify the status of this agreement with respect to our subdivision rules and whether it is really any of our business if you will, or whether it is anything we need to be concerned about. He said normally when there is a right of way, we just need to make sure what the status of the right of way is when it is conveyed; which lot the right of way would affect. He stated the right of way that is in the records for the driveway itself is clear, it's over Lot 1 to the benefit of the adjacent property, that much is clear; we are just trying to make sure we know the status of the license agreement.

Mr. Provost injected that they did a calculation regarding if a structure were put on that piece of property, including the parking. He said you may remember there was a proposed shared driveway off from Route 15 and they thought that wasn't as desirable, nor did it go with the overlay zoning because you want to be in the second or third tier parking. He said they did a calculation, assuming there was a footprint house there with a garage and that sort of thing, saying it was less than 40% lot coverage; well under the requirements. Mr. Provost said from that aspect, he thinks it is a non-issue. He said the intent for them is to let the neighbors enjoy what they have now, instead of letting a subdivision take something away from them.

Mr. Flynn said regarding the septic, Mr. Chase mentioned you were working toward a wastewater permit. He asked if they plan on having that in place for approval or would that lot be deferred. Mr. Chase said no, they are getting septic approval, so when he comes back for building approval he would have that in hand. Mr. Flynn clarified that we don't have to make a condition that you are not going to do septic prior to approval, language for deferment. Mr. Chase said that is correct. Mr. Provost said that is not part of this submittal, or request.

Mr. King said, just to be clear, the subdivision process is separate from a building permit, which would require some of those other permits to be interlocked. He said you can do a subdivision on land which does not have a septic plan. Mr. Flynn agreed, saying if you file that plat and it doesn't have septic there has to be language in the filing that it is deferred. Mr. King agreed. Mr. Provost said he would think if he is sitting where the DRB is sitting and looking at an application to subdivide, you might want some language that says in the event there is a development on that land they might produce a State wastewater permit. He said he wouldn't use the term deferred because

that clashes with what the State doesn't allow anymore. Mr. Chase clarified that they still allow deferrals, but they don't call it that anymore; they call it Notice of Development language that is in the wastewater rules to be recorded in the deed that is recorded.

Mr. King said what we are talking about tonight is straightforwardly a subdivision approval. He said it is perfectly okay under the rules to do a subdivision, as long as the lots are conforming, which may not be buildable for other reasons. He said we are not concerned with that, but what you do need to know is that if you decide to file a plat for these lots and there is no septic approval, the file documents have to say that. He said that is why we are asking; it is not really so much a question about what we do, but a question about what you do to file the final subdivision. Mr. Provost said that makes sense. Ms. Sonnick clarified they are in process currently. Mr. Chase stated it has been submitted to the State. Ms. Sonnick asked if they expect it soon. Mr. Chase said as soon as they are capable.

Mr. King said it is likely that if we approve this they will be able to wait before they need to file their plat on our deadlines, saying there is a certain amount of time after the subdivision approval before you have to file plats. He said if they can wait it out, they can do them cleanly with the permits in place. Mr. Chase agreed, saying ideally Mr. Handy could show up with his Mylar in one hand and his wastewater permit in the other. Mr. King stated he understands, we are just trying to make sure we understand exactly what you are asking for and what our rules say and we have to interlock.

Mr. York clarified the plan is to restrict the length how far back the Church can park. Mr. Provost said there is an attachment to the license agreement that defines this area, indicating on the plan. He stated it is 60' by 65', which is what it is today except on this parcel it wouldn't include this area, indicating on the plan. He said he is not sure that they use that, which is not to say they don't use it, but the license agreement only identifies what is on this lot. Mr. York said he thought that was restricting it, but that just refers to the limit for that particular lot. Mr. Provost agreed, saying one of the other considerations was that in the event of a failed septic system on this lot, the replacement area is down in here.

Mr. King asked if anyone had any other questions or any other new information that came in. Ms. Sonnick said there is one additional bit of information, which fits in with what is in staff report, is that the Trails Committee wanted the sidewalk easement along Route 15 to be included with the subdivision approval. She said Michelle noted that, but it should conform to the new zoning and that is essentially what they said. She stated you might hear some testimony about this, but the Church is concerned about some future stormwater runoff and drainage specific to their Church basement and potential damage. Ms. Sonnick said it sounds like it is along the existing drive and they would like to discuss that tonight. Mr. King asked if there is a letter in the file. Ms. Sonnick said there is a note from Michelle, but nothing in writing from the Church.

Public Comment

Mr. King described the rules for public comment. Mr. Reynes said he is a member of the Board of Trustees of the Episcopal Diocese of Vermont, which is the owner of the Calvary Church property. He said the Trustees conveyed the land to the predecessor in title that is now the subject of this application. He stated Mr. Provost has referred to this as the agreement, saying it should be referred to as the proposed agreement because it does not come from the Church. Mr. Reynes said a copy was dropped off at the Church on September 15th and it is not accurate to say that it was approved by the Town Attorney, saying he has spoken with the Town Attorney. He said he got here at 6:40 p.m. with the hope

of speaking with Mr. Provost personally, but he wasn't here. He stated the adjoining landowner, the Church and the Diocese, does have some issues; not with the proposed subdivision itself, but with respect to the parking lot and the proposed agreement to disallow parking here which has been used by the Church.

Mr. Reynes said at such time as the application comes forward to build on this lot, he understands that would be a separate proceeding. He stated the Church would be interested about where the access would be. He said in the prior plan there was a driveway here and this land slopes down and they just want to make sure that there isn't stormwater runoff coming across the access making an icy point there. Mr. Reynes said that is not today's issue and he expects it can be addressed at the time it comes up, but they would ask that the DRB not approve the subdivision yet until they have had an opportunity to come to an agreement because there is no agreement. He stated the proposed agreement refers to the Church being responsible for lighting; there are some lights that don't operate on top of the basketball hoop. He asked what kind of lighting there would be and the fact that the Church, which uses the lot once a week would be paying for all the costs of lighting and maintenance is something they would want to have a discussion about.

Mr. Reynes addressed Mr. King, saying earlier he raised the question that is not relevant to subdivision itself, saying he thinks it is in terms of prudence, if the DRB approve the subdivision as is and Mr. Handy sold it this way with the parking lot just being here and somebody buys it thinking that is the way it is, when that hasn't been worked out; that could cause some complications and problems including to the applicant. He introduced Senior Warden John Koier, Reverend Regina Christianson, and Karen Floyd. He said they would answer any questions, but that is basically their position that before there is an agreement it should not be presented as an agreement.

Mr. Villeneuve stated he owns on one side of the Church and behind both the subdivision of the land and the Church, the property that is being discussed. He commented that he doesn't know the position of the DRB, it is one thing to subdivision your land and it is another one to say whether you can build on it or not. He said you might not be able to stop the subdivision, noting he is not here to stop this subdivision; he is here to listen and the last thing he wants to do is to stop Mr. Handy from being able to use his land or the Church. Mr. Villeneuve said the parking lot as it is, if the Church has to make it even smaller, they have had to use his land before. He discussed some of the history of his property and the Church's use. He said he knows from his experience in planning and the issues from the property he bought from the Mills' that he believes the minimum right of way for any road, for a residential lot, because he encountered this on the Mills' property, is 30'.

Mr. Villeneuve said even though the Church has a right of way there and it isn't specified, he wants to make sure the DRB takes into consideration that if they make a subdivision or if it affects anything to do with the right of way on it, or the possibilities of what is left for the roadway or the land that could be used for development, it may not be 30', it may be even more on the commercial use of land by the Town specifications for a roadway, even though they are using it as one they may require one that is wider. He discussed an example, stating he knows the minimum for a residential lot is 30'. Mr. Villeneuve said he feels if the lot is subdivided, even though the Church doesn't have a specified one, the Town is saying that it has to be of a certain size to serve the use that is there. He stated that when it is subdivided it should be looked at to make sure the Church has an adequate right of way for the road that the Town would expect them to maintain, whether it is two lane traffic or not. He discussed traffic concerns if the width is not adequate.

Mr. Villeneuve said the parking, if it took something away from the Church, is a different issue. He stated there is an issue between the applicant and himself, which may or may not affect him. He said they infringe on his property and they have to notify him, which doesn't bother him. Mr. Villeneuve stated that he has a water well, that this may or may not affect, on his property when it comes time to build there. He said he just wanted to point those out, saying he is not against trying to work these things out and try to develop the property.

Mr. King said he heard a question about whether the right of way width is adequate to allow future development on the lot. He asked the applicants to answer the question. Mr. Provost stated it is his understanding that the right of way is for a driveway, not a public road. He said the fact that the Church is using the parking in the back, it was his understanding there was an agreement to allow them to park there, just not in writing. He said they proposed, the Church is using it, so the previous owner and Mr. Handy are allowing them to be there and you will agree that you do park there. Mr. Reynes agreed that they do park there. Mr. King reminded them of the rules of procedure.

Mr. Provost said Mr. Handy instructed him to talk freely with regards to the parking and he wants to let the Church be what the Church is, but there is no agreement in place in writing; there is an implied agreement because they are parking there. He stated they thought it would be prudent to solidify that, noting he was surprised it went to the Town Attorney because it is a two-party agreement between adjacent property owners that really didn't require scrutiny in his opinion. He said he could see where this could grow into something pretty tedious and confrontational and that is not Mr. Handy's intent; he wanted to let things be.

Mr. Provost said he is a little concerned that he got the input that he just got; in the spirit of trying to leave it there and let them park there was benevolent on the part of Mr. Handy. He said if it prevents him from doing a subdivision, he may have to revisit having a parking lot there at all and that could create more problems; that wasn't the spirit of where they were coming from. He said, that being said, Mr. Handy wants to be a friendly neighbor to the Church, but he also wants to utilize what zoning gives him in terms of subdivision and he meets all the requirements for that. Mr. Provost said if having the parking lot there prevents subdivision, he may have to relook at being able to do the subdivision somehow. He said he would encourage more communication regarding the parking in the back because he could see that being a problem more for the parking than anything else. He added that the reason why the lighting is there is because this house up here is where the lighting power comes from for that and this property is being sold.

Mr. Provost said the new owners would not want to be paying for the lighting for the Church parking, which is the reason why they discussed disconnecting that and having the Church be responsible for the lighting. He said there was even a suggestion about doing solar so that it wouldn't cost anything. He stated it is more to do with trying to be a good neighbor and let the uses that are there now continue to be used, but solidify with an agreement. Mr. Provost said if they cannot get to that point, he is sure that Mr. Handy is going to rethink what he needs to do to subdivision that property. He addressed Mr. Villeneuve's comments, saying they are valid. He said when you have frontage on a main street, it is frontage that can be used for access; he is not sure that we have to worry about whether it is 30' or whatever because it is a four rod road. Mr. Chase said that is correct.

Mr. Provost said he has the frontage, it is just prudent to think about alternatives than stopping in the middle of a busy main street. He discussed the speed limit and turning in and out of the property. He said that is not really an issue here. Mr. Provost said the notification of overlap with Mr. Villeneuve

regarding septic has to do with what the State refers to as Rule 145, saying it is only notification; there is no teeth in it, no consequence, all they have to do is notify the neighbor and there is no recourse after that. He said it is kind of a weird rule. He stated he is pretty concerned about the issue raised with the parking.

Mr. King asked Ms. Sonnick to clarify whether there is any subdivision rule that would make it so whether or not there is an agreement about how the land is used by an adjacent landowner, or anyone else for that matter, he doesn't know why that would be relevant to the subdivision or not. He said the question he has that comes out of this discussion is, it is routine for us to have the Town Attorney review the proposed easements and so on as a matter of course; he asked what the Town Attorney was consulted about on the agreements.

Ms. Sonnick said her understanding is that traditionally we wouldn't have the attorney review agreements until they are more solidified. She said she thinks what happened is there was a conversation with the Church folks about this proposed agreement and they contacted the Town Attorney and had a discussion on that level. She said perhaps Michelle was involved in that, saying she did provide the Attorney's name and contact information. Ms. Sonnick said she thinks in the case here, she is not sure how much we would have the Town Attorney involved, it would be more for a sidewalk easement and that sort of thing.

Mr. King agreed, saying we often get them to look at deed covenants to make sure that they are written properly. He said given that we are not talking about deed covenants that need to be in a proper form, so we as the Town don't have a concern about the form that any future agreement would take. He asked the DRB members if there is anything else we need to clarify on about this in order to deliberate on the subdivision.

Mr. Chase asked if Mr. Villeneuve would meet with him to determine where the well is located. Mr. Villeneuve said that is why he brought it up, and it may or may not be affected. He clarified he is not talking about the parking lot, but the subdivision of the land. He said when you subdivide that land, if he understands what he heard here tonight, the Church has a right of way over that property and that is the way they access their property and it is in a deed that authorizes it in the way they use it. Mr. Villeneuve stated they don't have to think about moving their right of way, they may have to not have a parking lot, but if that deed says they have a right of way there and that is how they access their Church, he thinks it is the Town's responsibility that whatever the right of way has to be for the use of the Church, whether it is 30' or wider, the subdivision could probably still take place, but Mr. Handy may not be able to build if the right of way is of a certain size by the Town's ordinance for the use and that should be looked into. Mr. King said he understands the issue.

Ms. Floyd provided some history on the Church, saying that in 1978 or 1979 they purchased that land, which is what could be Lot 1 and Lot 2. She said they kept it as long as they could afford it and they got to the point in 1989 where they could no longer afford to keep the property, so they put it up for sale. She said unfortunately at the time the zoning laws required an acre or two acres of land, so they could not subdivide and keep the parking lot themselves and sell the rest of the property. Ms. Floyd stated they ended up having to sell the entire piece of land and at the time they intended to get an easement for use of the driveway and the parking lot; unfortunately the words parking lot were left out of the agreement and they were just given rights to the driveway.

Mr. Reynes pointed out that parking lot is still in the deed. Ms. Floyd agreed, saying it is not in the wording of the easement. She said they have been using the parking lot, as they have for thirty-seven plus years, because that is how long they have owned the property up until now. She stated prior to that the people who owned the land always allowed them to park on that. Mr. Flynn said the predecessor Tatro, they were given verbal permission to park there. Ms. Floyd said yes. Mr. King asked if we don't have the deeds as part of this. Mr. Flynn said we have one here. He asked Mr. Craig Chase about sheet drainage across, whether it slopes from northeast to southwest. Mr. Chase said it does to the driveway and then it comes that way with a tip to it toward this edge of the driveway. Mr. Flynn asked if it is all gravel. Mr. Chase stated that part is paved right there. Mr. Flynn said most of the site is gravelly. Mr. Chase agreed, saying it is as good as it gets for septic.

Ms. Sonnick said with the submission of the new plan here, it looks like the size of the property is a little smaller now with it being a four rod road. She stated that is fine as far as lot dimensions go. She said what she hasn't looked at is if we are considering an easement in the front for the sidewalk, is whether there is enough room. Mr. Flynn said his question on that is they asked for an easement, but do we need one if it is a four rod right of way. Ms. Sonnick said it is unclear to her. Mr. King said he sees what you are saying, if there was a real easement needed, this would be the time to do it as opposed to doing it on the site plan later.

Mr. Flynn stated it is hard to do without a design. Ms. Sonnick said the way the new regulations are, the development plan is much more involved than pulling a building permit, so there is room in there that we could get the easements. She said the question is that there will be two properties, one will have a development plan and the other one won't. She stated Lot 1 we can deal with later, but Lot 2 we could deal with now. Mr. Flynn discussed why that makes sense.

Mr. Provost commented that with the 66' right of way, four rod right of way, they are assuming the center line of the road is the center line of the right of way. Mr. Chase said he believes it actually stated that in the deed. Mr. Provost discussed his assumptions about the dimensions of the road. He stated an easement may not be needed. He said Mr. Handy doesn't have a problem providing an easement for a future bike path or sidewalk. Mr. Provost said the question becomes how wide the right of way is, which he thinks should be defined. Mr. King agreed that makes sense.

Mr. King asked if there is anything else. Ms. Sonnick said there was a lot of discussion about parking, but as far as subdivision standards go, she thinks that is pretty straightforward. Mr. King closed the hearing. He explained the applicant would receive the decision within 45 days, noting it is usually sooner.

3. Minutes from August 27, 2015.

The DRB tabled approval of the minutes from August 27, 2015.

The Development Review Board entered deliberative session at 8:10 p.m.